



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Acting Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3004526
Applicant Name: Vasilios Kounellas
Address of Proposal: 5446 40th Ave W

SUMMARY OF PROPOSED ACTION

Land Use Application to construct a 120 sq. ft. deck addition to extend an existing 280 sq. ft. deck on a single family residence.

The following approvals are required:

Variance – to exceed the maximum allowed lot coverage (35% allowed, 50% proposed)
Section 23.44.010C

Variance – to reduce the front yard setback (minimum 20 feet required, 17 feet
proposed) Section 23.44.010C Seattle Municipal Code (SMC).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ EIS
☐ DNS with conditions
☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

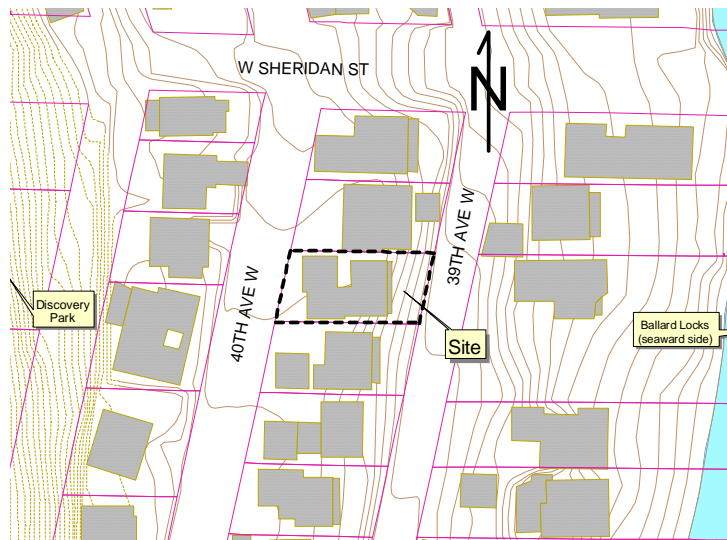
Site

The site is located on 40th Ave W between W. Sheridan St and W. Cramer St on the north side of Magnolia, northeast of Discovery Park. The site is a through lot and is bordered by 40th Ave W on the west side and 39th Ave W on the east side. Due to two street fronts, the lot is subject to two front yard requirements and no rear yard requirements. The site measures 50 by 100 feet for a total lot area of 5,000 square feet. The site slopes slightly to the east, toward the Ballard Locks.

The parcel is developed with a single family structure, a carport facing the front yard adjacent to 40th Ave W, and a second story deck facing the front yard adjacent to 39th Ave W.

Area Development

Discovery Park is located west of the bluff, to the west of the subject property. The immediate surrounding area consists of single family residential development. The shoreline of the seaward side of the Ballard Locks is located approximately 205 feet east of the subject property.



Description of Proposal

The applicant proposes to add a three foot extension east from the existing east-facing second story deck. The deck is currently 7 feet deep and extends the width of the residence. The existing deck appears to be located 20 feet from the east property line at the closest point, per paving plans accessed from Seattle Public Utilities. The plans submitted with the application show the existing deck located 16 feet from the east property line at the closest point. The Land Use Planner has modified the dimensions and numeric data on the plans, according to data found in Seattle records. The corrected dimensions translate to a variance request for a 17 foot front yard adjacent to 39th Ave W.

The three foot addition would increase overall lot coverage from 46.7% to 50%.

Public Comment

Notice of the proposal was issued on May 18, 2006. One public comment letter was received.

ANALYSIS - VARIANCE

As provided in SMC 23.40.020, variances from the provisions or requirements of Seattle Municipal Code Title 23 shall be authorized only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

1. ***Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;***

The subject property is unusual due having two street frontages and no alley. The proximity of nearby properties adjacent to the shoreline likely resulted in the classification of 39th Ave W. as a street rather than an alley. If the east property line were adjacent to an alley instead of a street, more lenient rear yard requirements would apply and a portion of the alley area could count towards additional available lot coverage. Nearby properties exhibit lot coverage beyond what the code allows and encroachments into required yards, which may have been granted in response to similar lot conditions. Thus, the strict application of the Land Use Code under these conditions would prevent the enjoyment of normal land use privileges allowed in the same zone and vicinity.

2. ***The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

Plans evidence that the proposed modification is minor. The applicant proposes to extend the existing deck east an additional three feet, with a total additional area of 120 square feet. The finished structure will be proportional in size to several nearby second story decks, and therefore does not constitute any special privilege.

3. ***The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

This pattern of development is common in this zone and vicinity. The proposed minor additional area and additional horizontal projection at the second story are not anticipated to be materially detrimental to any adjacent property or improvement.

4. ***The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;***

The applicant has stated that it is difficult to have adequate use and clearance on the 7-foot deep deck. The limited depth makes it difficult to place a table and chairs in the area with adequate clearance. Topography changes on the east area of the lot further reduce usable outdoor areas, making the deck space more important to the applicant. The addition of three feet of depth would allow more efficient usable outdoor space and would reflect similar decks on nearby properties. If 39th Ave W were an alley instead of a second street front, this proposal would likely be allowed under the code provisions without a variance. The literal interpretation of the applicable Land Use Code provisions to this property would create practical difficulties not found in other properties in the zone, and would not reflect surrounding development in response to these difficulties.

5. ***The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use regulations for the area.***

The Land Use Code provides for a variance process for relief from unusual conditions and situations that the rules of the Code could not anticipate. At the same time, the spirit and intent of the Land Use Code and Land Use regulations is to provide development compatible with environmental constraints, land development patterns, and existing neighborhood character.

The request for a variance is due to the platting of the lot on two street fronts, and the designation of 39th Ave W as a street rather than an alley. This variance application seeks to provide flexibility for a minor modification in a situation constrained by platting and street designation.

The proposed additions are consistent with the spirit and purpose of the Land Use Code and adopted Land Use Comprehensive Policies as applicable.

DECISION - VARIANCE

Based on the above findings and analysis all of the facts and conditions stated in the numbered criteria of SMC 23.40.020, *Variances*, are found to exist. Each of the requested variances is **CONDITIONALLY APPROVED**, subject to the following condition:

CONDITIONS – VARIANCE

Prior to Issuance of any Building Permit for the above described work and For the Life of the Project:

1. The variance is approved based on the plan sets date stamped May 8, 2006, including redline dimensions and numeric data added by the Land Use Planner.

Signature: (signature on file)
Shelley Bolser, Land Use Planner
Department of Planning and Development

Date: August 3, 2006